

UNITED STATES DISTRICT COURT

EASTERN DISTRICT OF TEXAS

RAUL GARZA,

Petitioner,

versus

F.J. GARRIDO,

Respondent.

CIVIL ACTION NO. 1:20-CV-523

**MEMORANDUM ORDER OVERRULING OBJECTIONS AND ADOPTING
THE MAGISTRATE JUDGE’S REPORT AND RECOMMENDATION**

Petitioner Raul Garza, proceeding *pro se*, filed this petition for writ of habeas corpus pursuant to 28 U.S.C. § 2241. The court referred this matter to the Honorable Zack Hawthorn, United States Magistrate Judge, at Beaumont, Texas, for consideration pursuant to applicable laws and orders of this court.

The respondent filed a motion for summary judgment. The Magistrate Judge has submitted a Report and Recommendation of United States Magistrate Judge recommending the motion be granted and the petition dismissed pursuant to Federal Rule of Civil Procedure 56.

The court has received the Report and Recommendation of United States Magistrate Judge, along with the record, pleadings, and all available evidence. Petitioner filed objections to the Report and Recommendation. The court must therefore conduct a *de novo* review of the objections in light of the pleadings and the applicable law.

The Magistrate Judge’s recommendation was based on the conclusion that petitioner failed to exhaust his administrative remedies. As a general matter, federal prisoners must exhaust administrative remedies before seeking habeas relief under Section 2241. *Fuller v. Rich*, 11 F.3d 61, 62 (5th Cir. 1994). Exceptions to the exhaustion requirement apply only in “extraordinary circumstances” when administrative remedies are unavailable or wholly inappropriate to the relief sought, or where the attempt to exhaust such remedies would itself be “a patently futile course of action.” *Id.*

Petitioner does not contend he has completed the administrative remedy process that is available to him. Nor has he demonstrated that one of the exceptions to the exhaustion requirement applies. Petitioner has not shown that the Bureau of Prisons would not consider his request for administrative remedy in good faith and correct any error it has made in calculating his sentence. Petitioner's objections are therefore without merit.

ORDER

Accordingly, petitioner's objections are **OVERRULED**. The findings of fact and conclusions of law of the magistrate judge are correct, and the report of the magistrate judge is **ADOPTED**. The motion for summary judgment is **GRANTED**. A final judgment shall be entered dismissing the petition.

SIGNED at Beaumont, Texas, this 26th day of April, 2022.

A handwritten signature in black ink, reading "Marcia A. Crone", is positioned above a horizontal line.

MARCIA A. CRONE
UNITED STATES DISTRICT JUDGE